

REMARKS:

In view of the foregoing amendments and the following remarks please reconsider the current application.

Responsive to the election requirement, election of invention 1, drawn to a holder as defined in claims 1 through 10, is hereby confirmed. Non-elected claims 11 through 20 are hereby cancelled without prejudice. The applicant expressly reserves the right to pursue same or similar subject matter as the non-elected claims in a divisional, continuation or a continuation-in-part application.

With regard to the subject matter of the claims, claim 1 has been amended to include the subject matter of previously submitted dependent claims 2, 3, 4 and 10. The invention as defined in claim 1 has the advantage over the prior art of resembling a beer stein in which the receptacle spans a full length of the beverage can and in which a handle is provided, but where access is still provided to the mouth of the can by a mouth recess. This is accomplished by locating the mouth recess to be offset approximately 90 degrees from the handle in a manner which is unseen in the prior art. As the structure of the holder as defined in now amended claim 1 provides the appearance of a beer stein while supporting a beverage can therein unlike any prior art device, Claim 1 is now believed to be allowable.

As noted above, Claim 1 includes the subject of previously submitted dependent claim 4. The examiner's only previous basis for rejecting claim 4 with regard to the mouth recess being offset 90 degrees in relation to the handle was US 4,966,303 belonging to Jones. The recess which the examiner has referred to in Jones however comprises merely a flexible collar arranged to fit snuggly around the periphery of the can. There is no recess of the type which extends downwardly from an upper edge of the receptacle as in the present invention. Now amended Claim 1 is therefore distinguished from Jones.

With regard to a mouth recess which extends downward from an upper edge of a sleeve structure as defined in previously submitted dependent claim 2, the examiner has only cited US 4,974,741 belonging to Gustafson et al. Although the embodiment of figure 8 in Gustafson does disclose a mouth recess extending down from the upper edge of a sleeve structure, there is no handle provided in the document to Gustafson so that Gustafson does not appear like a beer stein as desired by the present invention. Accordingly now amended Claim 1 is also distinguished from Gustafson.

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With regard to obviousness, even if the cited references to Gustafson and Jones were combined, there is no suggestion as to where to locate the handle in relation to the mouth recess. Locating the handle offset by 90 degrees from the mouth recess has been found by the applicant to be the most comfortable when grasping the handle in the hand of a user. As the examiner has not located any prior art references locating a mouth or spout and the like which is offset by 90 degrees from a handle on a beverage holder and like, it is believed that claim 1 is now in condition for allowance.

Favorable reconsideration of this application is earnestly solicited.

Respectfully submitted  
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CERTIFICATION OF FACSIMILE TRANSMISSION

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